



STATE OF NEW YORK

UNEMPLOYMENT INSURANCE APPEAL BOARD

PO Box 15126

Albany NY 12212-5126

DECISION OF THE BOARD

Mailed and Filed: JUNE 13, 2022

IN THE MATTER OF:

Appeal Board No. 620704

PRESENT: MICHAEL T. GREASON, MEMBER

The Department of Labor issued the initial determination disqualifying the claimant from receiving benefits, effective July 11, 2021, on the basis that the claimant voluntarily separated from employment without good cause. The claimant requested a hearing.

The Administrative Law Judge held a telephone conference hearing at which testimony was taken. There were appearances by the claimant and on behalf of the employer. By decision filed December 28, 2021 (), the Administrative Law Judge overruled the initial determination.

The employer applied to the Appeal Board, pursuant to Labor Law § 620 (3), for a reopening and reconsideration of the Judge's decision. Due deliberation having been had, the Board has reopened and reconsidered the decision of the Administrative Law Judge.

Our review of the record reveals that the case should be remanded to hold a hearing. The factual issue recited in the initial determination is that the claimant quit her job to attend school. The Judge decided the case on the basis of the claimant quitting her job to accept a bona fide offer of new employment, but the Judge did not advise the parties that she would consider this basis, and the Judge did not offer the parties an opportunity to request an adjournment. The case is remanded to afford the parties another opportunity to complete the record with respect to whether the claimant had good cause to quit her job. The parties are hereby on notice that, at the remand hearing, the Judge will consider whether the claimant had good cause to quit to accept

new employment, or had good cause to quit because she needed to care for her grandmother, and the Judge also will consider whether the claimant took reasonable steps to preserve her employment prior to quitting. In addition, the Judge shall ask the claimant who advised her to file an unemployment insurance claim during the period between when she quit this employment and when she was scheduled to start her new job.

Now, based on all of the foregoing, it is

ORDERED, that the decision of the Administrative Law Judge be, and the same hereby is, rescinded; and it is further

ORDERED, that the case shall be, and the same hereby is, remanded to the Hearing Section to hold a hearing on the issue of voluntary separation from employment without good cause, upon due notice to all parties and their representatives; and it is further

ORDERED, that the hearing shall be conducted so that there has been an opportunity for the above action to be taken, and, so that at the end of the hearing, all parties will have had a full and fair opportunity to be heard; and it is further

ORDERED, that an Administrative Law Judge shall render a new decision, on the issue of voluntary separation from employment without good cause, which shall be based on the entire record in this case, including the testimony and other evidence from the original and the remand hearings, and which shall contain appropriate findings of fact and conclusions of law.

MICHAEL T. GREASON, MEMBER